

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

For Online Publication Only

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SANDINO CAMPBELL,

Petitioner,

-against-

ORDER
19-CV-2448 (JMA)

DOWNSTATE CORRECTIONAL FACILITY,

Respondent.

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AZRACK, United States District Judge:

On April 20, 2023, Petitioner Sandino Campbell filed a letter stating that he was submitting a CPL § 440.10 motion and asked that his habeas corpus petition be held in abeyance until he exhausts this new claim. Petitioner’s letter also states that “I need 60 days to provide you with the proper notification that such motion is being filed.” Since his April 20, 2023 letter, Petitioner has not filed anything further with the Court.

“[S]tay and abeyance should be available only in limited circumstances” so as not to undermine the “twin purposes” of the federal habeas statute: “encouraging finality” and “streamlining federal habeas proceedings.” Rhines v. Weber, 544 U.S. 269, 277 (2005). “Courts may stay a habeas petition to allow for exhaustion of claims in state court if the petitioner can demonstrate that: (1) good cause exists for failing to exhaust the claims previously, (2) the claims are potentially meritorious, and (3) the petitioner did not intentionally engage in dilatory litigation tactics.” Perkins v. LaValley, No. 11-CV-3855, 2012 WL 1948773, at *1 (S.D.N.Y. May 30, 2012) (citing Rhines, 544 U.S. at 277–78).

Petitioner’s April 20, 2023 letter provides no detail about the new claim he intends to raise and does not address the relevant factors cited above. Petitioner is directed to show cause, in writing, by September 20, 2023 why the Court should grant his request for a stay and abeyance.

If Petitioner fails to file a response by September 20, 2023, the Court will deny his request for a stay based on his April 20, 2023 filing.

SO ORDERED.

Dated: August 22, 2023
Central Islip, New York

/s/ (JMA)
JOAN M. AZRACK
UNITED STATES DISTRICT JUDGE